

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

5601 WEST MAIN PROPERTIES, LLC,

Plaintiff,

-VS-

MATTRESS FIRM, INC.,

Defendant.

Civil Action No.:

Hon.

Removed from 8th Judicial District Court,  
Case No.: 20-0594-LT

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**NOTICE OF REMOVAL**

Defendant Mattress Firm, Inc. files this Notice of Removal pursuant to 28 U.S.C. § 1446, and respectfully shows the following:

**INTRODUCTION**

1. Plaintiff is 5601 West Main Properties, LLC (“West Main”).
2. Defendant is Mattress Firm, Inc. (“Mattress Firm”).
3. On or about August 25, 2020, West Main filed its original Complaint against Mattress Firm in the 8th Judicial District Court of Kalamazoo County, Michigan, Case No. 20-0594-LT, styled *West Main Properties, LLC v. Mattress Firm, Inc.* West Main asserts a state-law claim against Mattress Firm for non-payment of rent, and is seeking to recover money damages

and possession of the property located at 5601 W. Main Street, Suite 7, Kalamazoo, Michigan (the “Premises”). (See **Exhibit A**).

4. West Main served Mattress Firm with its Complaint on September 2, 2020.

#### **BASIS FOR REMOVAL**

5. Removal is proper under 28 U.S.C. § 1332 and § 1441 because there is complete diversity between the parties, and the courts of the United States have original jurisdiction.

6. West Main is a Michigan limited liability company whose owners or members are individuals domiciled in Michigan. Therefore, West Main is a citizen of Michigan. *See Varsity Brands, Inc. v. Star Athletica, LLC*, 799 F.3d 468, 494 (6th Cir. 2015) (LLC’s citizenship is that of each of its members).

7. Mattress Firm is a Delaware corporation whose principal place of business is in Houston, Texas. Therefore, Mattress Firm is a citizen of Delaware and Texas. *See* 28 U.S.C. § 1332(c)(1) (corporation is a citizen of the state where it is organized and where it has its principal place of business).

8. West Main seeks a judgment terminating Mattress Firm’s right to possession of the leased Premises, restoring possession to West Main, and awarding at least \$25,000 in past damages. *See* Compl. These claims place significantly more than \$75,000 in controversy. The value of the Lease at issue is at least \$9,261 per month, and the Lease does not expire until August 31, 2026 (in approximately 70 months), giving the Lease a present value of approximately \$650,000. Moreover, under section 10.2 of the Lease, which West Main seeks to enforce, Mattress Firm can be liable for the monthly rent for the remaining term of the lease (70 months). Thus, the amount in controversy far exceeds \$75,000, exclusive of interest and costs.

9. Mattress Firm may remove this case under 28 U.S.C. § 1441 because it is not a citizen of Michigan.

10. This Notice of Removal is timely filed within 30 days after receipt of the initial pleading, in accordance with 28 U.S.C. § 1446(b).

11. Mattress Firm will file a Notice of Filing Notice of Removal with the 8th Judicial District Court of Kalamazoo County, Michigan, promptly after filing this Notice of Removal. Mattress Firm will also provide prompt notice of the filing of this Notice of Removal to all known counsel of record in accordance with 28 U.S.C. § 1446(d).

12. Attached to this Notice of Removal are all executed process and all pleadings. There are no orders issued by the state court.

### **CONCLUSION**

Mattress Firm respectfully requests that this action be removed from the 8th Judicial District Court of Kalamazoo County, Michigan; that this Court accept jurisdiction over this action; and that Mattress Firm be awarded all further relief to which it may be entitled.

Respectfully submitted,

VARNUM LLP  
*Attorneys for Defendant*

Dated: September 14, 2020

By: /s/ Adam J. Brody  
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**CERTIFICATE OF SERVICE**

I certify that on September 14, 2020, a copy of the foregoing instrument and a copy of the state court ***Notice of Filing Notice of Removal*** was served on the following counsel of record via First Class Mail in accordance with the Federal Rules of Civil Procedure and a copy was also served by Email:

Clerk of the Court  
8th District Court  
150 East Crosstown Parkway  
Kalamazoo, MI 49001

**VIA HAND DELIVERY**

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